IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 156 OF 2003

Shri P. J. Joseph,
Resident of Changanassery,
via Kottayam
Kottayam, Kerala. ... Applicant.

versus

State of Goa
(Through P.S.C.B.C.I.D.) ... Respondent.

Miss Rajani Kamath, Advocate for the Applicant.

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 25TH JULY, 2003.

ORAL ORDER

This is an application filed by the Applicant under Section 438 of the Code of Criminal Procedure seeking pre-arrest Bail in Crime No.43/2002 for an offence punishable under Sections 468, 469, 471, 120-B of the Indian Penal Code and Section 13(I)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.

2. This offence was registered primarily on the

allegations that extra neutral alcohol has been imported in huge quantity from Madhya Pradesh to Goa on the basis of import permits having forged signatures of the Assistant Commissioner of Excise. Some Accused have been arrested who have now been enlarged on Bail.

3. The application preferred by the Applicant before the learned Sessions Judge, North Goa, Panaji, came to be rejected by Order dated 16th June, 2003, on the ground that the record had revealed that the Applicant had used different types of rubber stamps/seals of the Office of the Excise Department on the forged permits. The learned Sessions Judge, North Goa, Panaji, also observed that the records revealed that one of the tankers used for transporting of the extra neutral alcohol was owned by the Applicant.

4. I have heard Miss Rajani Kamath, learned Counsel who has very ably argued on behalf of the Applicant and Mr. S. N. Sardessai, learned Public Prosecutor on behalf of the State. The learned Counsel on behalf of the Applicant has urged before me that there is absolutely no material to warrant a conclusion that the tanker which was allegedly used in the transport of extra neutral alcohol belongs to the present Applicant. She has also urged before me that

there is no material on record to justify the conclusion that the Applicant has used different types of rubber stamps/seals on the forged permits.

5. According to Mr. S. N. Sardessai, learned Public Prosecutor on behalf of the State, the only material which is available at present at this stage is the statement of the co-Accused implicating the Applicant and apart from that, there is no other material. He has also submitted, on instructions, that the number plates on the tanker depict a bogus registration number and prima facie at this stage, the prosecution does not have any material to indicate that the tanker so seized belongs to the present Applicant.

6. I am in agreement with the submissions of the learned Counsel on behalf of the Applicant that at this stage, there is no material to even prima facie implicate the Applicant in respect of the commission of the offence alleged against him. According to me, by imposition of certain conditions, the right of the Police to interrogate the Applicant would not be frustrated. Accordingly, this application is allowed. The Applicant to be released on Bail on his furnishing a PR Bond in the sum of Rs.20,000/- with one surety in the like amount, in the event of his arrest in Crime

No.43/2002 under Sections 468, 469, 471, 120-B of the Indian Penal Code and Section 13(I)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 on the following conditions:-

1. The Applicant on his release, for a period of one week, shall attend the Office of the Crime Branch, C.I.D., Panaji, everyday between 10.00 a.m. to 12 noon and thereafter, shall attend the Office of the Crime Branch, C.I.D., Panaji, twice a week for a period of one week. During these two weeks, the Applicant shall reside at Goa and shall furnish to the Police a detailed address at which the Applicant would be available.

2. The Applicant shall furnish his detailed residential address at Kerala and in case of any change of address shall intimatte the Police accordingly.

3. The Applicant shall neither influence the witnesses nor tamper with the prosecution evidence.

4. The Applicant shall surrender his Passport to the Police.

7. On the above conditions, Criminal Miscellaneous Application No.156 of 2003 is allowed.

P. V. HARDAS, J.